

Mahesh Sahakari Bank Ltd. .. Petitioner
 Versus
 Shirish Madhusudan Pandit
 and Ors. .. Respondents

Mr.Utangale i/b. M/s.Utangale & Co. for
petitioner
Ms.Kinjal Kania i/b. M/s.Kini and Co. for
respodnent No.1.
Mr.G.B.Badigar for respondent Nos. 2 and 3.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 14th February 2006.

P.C.

. Heard Mr.Utangale for petitioner.
Perused the order passed by the trial court on
29th January 2005 in Special Civil Suit No.1209
of 2003.

2. Exhibit 24 is the application preferred

by the petitioner defendant in that suit for rejection of plaint as in the submission of petitioner it does not comply with the provisions of Section 164 of Maharashtra Cooperative Societies Act, 1960.

3. Said application is rejected by learned Judge as in his opinion the controversy in the suit is whether the suit property is ancestral and that the same has been partitioned between the plaintiff and defendant Nos. 2 and 3.. The suit is filed for declaration and permanent injunction on the basis that plaintiff has a share in the same. It cannot be affected, as held rightly by the learned Judge, by non issuance of notice under section 164 of Maharashtra Coop.Societies Act.

4. Be that as it may, if at a subsequent stage, plaintiff and defendant Nos. 2 and 3 or such of them claim any relief in the suit against

petitioner bank, it would be open for it to urge that the same cannot be granted for want of compliance with section 164 of Maharashtra Coop.Societies Act. At this stage, no interference is necessary with the order under challenge. Petition dismissed.

(S.C.DHARMADHIKARI, J)